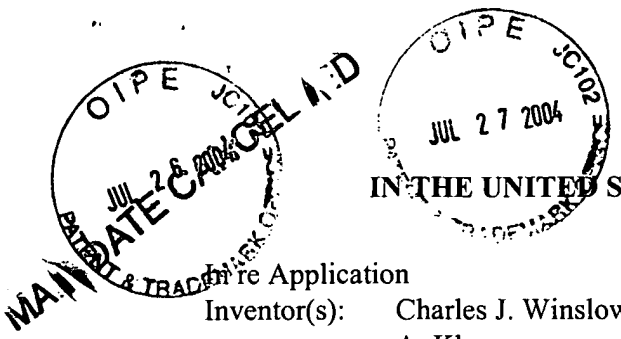


IFW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pre Application

Inventor(s): Charles J. Winslow, David Bohrer and Henry A. Klyce
Appln. No.: 10/774,664
Confirm. No.: 9446
Filed: February 9, 2004
Title: SYSTEM AND METHOD FOR IMMOBILIZING ADJACENT SPINOUS PROCESSES

PATENT APPLICATION

Art Unit: 3732
Examiner: not yet assigned

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 23, 2004.

(Attorney Signature)

Michael L. Robbins, Reg. No. 54,774
Signature Date: July 23, 2004

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- ✓ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ✓ The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an

Information Disclosure Statement submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

— The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

— If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— ***PTA Statement under 37 C.F.R. §1.704(d).*** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

This statement should be considered because:

✓ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
— (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

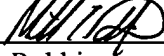
- (1) It is being filed on or before payment of the Issue Fee;
-- AND --
(2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
(3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER MEYER LLP

Date: 7/23/04

By: 
Michael L. Robbins
Reg. No. 54,774

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800

Form PTO-1449
(Substitute)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEAttorney Docket Number
KLYC-1086US1Serial/Patent Number
10/774,664Information Disclosure Statement
BY APPLICANT

(Use several sheets if necessary)

Applicant/Patent Owner
Charles J. Winslow et al.Filing/Issue Date
February 9, 2004Group Art Unit
3732

FOREIGN PATENT DOCUMENTS

Examiner Initials		Document Number	Publication Date	Country	Class	Subclass	Translation Yes No	
	1	DE 3113142 A1	1-1982	Germany				
	2	EP 140790 A2	10-1984	EPO				
	3	EP 146347 A1	12-1984	EPO				
	4	DE 2821678 A1	4-1980	Germany				
	5	EP 322334 A1	12-1988	EPO				
	6	SU 1484348 A1	6-1989	Soviet Union				
	7	WO 90/00037	1-1990	PCT				
	8	CA 2015507	1-1991	Canada				
	9	WO 91/16018	10-1991	PCT				
	10	FR 2681525 A1	3-1993	France				
	11	WO 94/21185	9-1994	PCT				
	12	WO 94/26192	11-1994	PCT				
	13	FR 2707864 A1	1-1995	France				
	14	FR 2717675	9-1995	France				
	15	EP 0677277 A2	10-1995	EPO				
	16	FR 2722980 A1	2-1996	France				
	17	EP 0767636 B1	4-1997	EPO				
	18	WO 98/48717	11-1998	PCT				
	19	WO 99/26562	6-1999	PCT				
	20	WO 99/40866	8-1999	PCT				
	21	WO 99/42051	8-1999	PCT				
	22	WO 99/59669	11-1999	PCT				
	23	FR 2780269 A1	12-1999	France				

FOREIGN PATENT DOCUMENTS							
Examiner Initial	Document Number	Publication Date	Country	Class	Subclass	Translation Yes No	
	24	FR 2782911 A1	3-2000	France			
	25	WO 00/13619	3-2000	PCT			
	26	WO 00/13620	3-2000	PCT			
	27	WO 00/04851	2-2000	PCT			
	28	WO 01/28442 A1	4-2001	PCT			
	29	FR 2806614 A1	9-2001	France			
	30	FR 2806616 A1	9-2001	France			
	31	EP 1138268 A1	10-2001	EPO			
OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)							
	32	Minns, R.J., et al., <i>Preliminary Design and Experimental Studies of a Novel Soft Implant for Correcting Sagittal Plane Instability in the Lumbar Spine</i> , SPINE Volume 22, Number 16, pp.1819-1825, © 1997, Lippincott-Raven Publishers					
	33	Waldemar Link, brochure entitled <i>Wirbelsäulen-Chirurgie: Instrumentarium Und Implantate Zur Wirbelsäulen-Chirurgie</i> (Spinal Surgery: Instrumentation and Implants for Spinal Surgery), Waldermar Link, Hamburg, Germany					
	34	Haruo Tsuji, et al., <i>Ceramic Interspinous Block (CISB) Assisted Anterior Interbody Fusion</i> , Journal of Spinal Disorders, Vol.3, No.1, pp.77-86, ©1990 Raven Press, Ltd., New York					
	35	Richard W. Porter, MD, FRCS, FRCSE, <i>Spinal Stenosis and Neurogenic Claudication</i> , SPINE Volume 21, Number 17, pp.2046-2052, ©1996, Lippincott-Raven Publishers					
Examiner			Date Considered				
<p>*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p>							
<p>*1 = Copy not submitted because it was submitted in prior application SN / _____, filed _____, 20____, relied on under 35 USC §120.</p> <p>*2 = Copy not submitted because it was submitted in prior application SN / _____, filed _____, 20____, relied on under 35 USC §120.</p>							